

104TH CONGRESS
1ST SESSION

H. R. 205

To require the Federal Government to incarcerate or to reimburse State and local governments for the cost of incarcerating criminal aliens.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. CONDIT (for himself, Mrs. THURMAN, Mr. CUNNINGHAM, and Mr. CANADY of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require the Federal Government to incarcerate or to reimburse State and local governments for the cost of incarcerating criminal aliens.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Criminal Aliens
5 Federal Responsibility Act of 1995”.

1 **SEC. 2. INCARCERATION OF CRIMINAL ALIENS BY OR AT**
2 **THE EXPENSE OF THE FEDERAL GOVERN-**
3 **MENT.**

4 (a) DEFINITION.—In this section, “criminal alien
5 who has been convicted of a felony and is incarcerated in
6 a State or local correctional facility” means an alien
7 who—

8 (1)(A) is in the United States in violation of the
9 immigration laws; or

10 (B) is deportable or excludable under the Immi-
11 gration and Nationality Act (8 U.S.C. 1101 et seq.);
12 and

13 (2) has been convicted of a felony under State
14 or local law and incarcerated in a correctional facil-
15 ity of the State or a subdivision of the State.

16 (b) FEDERAL CUSTODY.—At the request of a State
17 or political subdivision of a State, the Attorney General
18 shall—

19 (1)(A) take custody of a criminal alien who has
20 been convicted of a felony and is incarcerated in a
21 State or local correctional facility; and

22 (B) provide for the imprisonment of the crimi-
23 nal alien in a Federal prison in accordance with the
24 sentence of the State court; or

25 (2) enter into a contractual arrangement with
26 the State or local government to compensate the

1 State or local government for incarcerating alien
2 criminals for the duration of their sentences.

3 **SEC. 3. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
4 **EXCLUSION.**

5 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
6 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
7 is amended by adding at the end the following new sub-
8 paragraph:

9 “(E) CONVICTED DEFINED.—In this para-
10 graph, the term ‘convicted’ means a judge or
11 jury has found the alien guilty or the alien has
12 entered a plea of guilty or nolo contendere,
13 whether or not the alien appeals therefrom.”.

14 (b) DEPORTATION OF CONVICTED ALIENS.—

15 (1) IMMEDIATE DEPORTATION.—Section 242(h)
16 of such Act (8 U.S.C. 1252(h)) is amended—

17 (A) by striking “(h) An alien” and insert-
18 ing “(h)(1) Subject to paragraph (2), an alien”;

19 (B) by adding at the end the following new
20 paragraph:

21 “(2) An alien sentenced to imprisonment may be de-
22 ported prior to the termination of such imprisonment by
23 the release of the alien from confinement, if the Service
24 petitions the appropriate court or other entity with author-
25 ity concerning the alien to release the alien into the cus-

1 today of the Service for execution of an order of deporta-
2 tion.”.

3 (2) PROHIBITION OF REENTRY INTO THE UNIT-
4 ED STATES.—Section 212(a)(2) of such Act (8
5 U.S.C. 1182(a)(2)) is amended—

6 (A) by redesignating subparagraph (F) as
7 subparagraph “(G)”;

8 (B) by inserting after subparagraph (E)
9 the following new subparagraph:

10 “(F) ALIENS DEPORTED BEFORE SERVING
11 MINIMUM PERIOD OF CONFINEMENT.—An alien
12 deported pursuant to section 242(h)(2) is ex-
13 cludable during the minimum period of confine-
14 ment to which the alien was sentenced.”.

15 (c) EXECUTION OF DEPORTATION ORDERS.—Section
16 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
17 ing at the end the following: “An order of deportation may
18 not be executed until all direct appeals relating to the con-
19 viction which is the basis of the deportation order have
20 been exhausted.”.

21 **SEC. 4. DETENTION OF ALIENS SUBJECT TO DEPORTATION**
22 **ON CRIMINAL AND SECURITY GROUNDS**
23 **PENDING DEPORTATION PROCEEDINGS.**

24 (a) APPREHENSION AND DEPORTATION OF ALIENS
25 SUBJECT TO DEPORTATION ON CRIMINAL OR SECURITY

1 GROUND.—Section 242(a) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1252(a)) is amended—

3 (1) in the second sentence of paragraph (1) by
4 striking “paragraph (2),” and inserting “paragraphs
5 (2) and (4),”; and

6 (2) by adding at the end the following new
7 paragraph:

8 “(4) Pending a determination of deportability in the
9 case of any alien subject to deportation for criminal of-
10 fenses or security and related grounds pursuant to para-
11 graphs (2) and (4) of section 241(a), the Attorney General
12 shall—

13 “(A) upon warrant of the Attorney General, ar-
14 rest and take into custody the alien pending a final
15 determination of deportability; or

16 “(B) take the alien into custody upon release of
17 the alien from incarceration (regardless of whether
18 or not such release is on parole, supervised release,
19 or probation, and regardless of the possibility of re-
20 arrest or further confinement in respect of the same
21 offense) pending a final determination of deportabil-
22 ity.

23 Notwithstanding paragraph (1) or subsection (c) and (d),
24 the Attorney General shall not release such alien from
25 custody.”.

1 (b) MANDATORY DETENTION OF AGGRAVATED FEL-
2 ONS PENDING DETERMINATION OF DEPORTABILITY.—

3 Section 242(a)(2) of such Act is further amended—

4 (1) by striking subparagraph (B); and

5 (2) in subparagraph (A)—

6 (A) by striking “(2)(A)” and inserting

7 “(2)”, and

8 (B) in the second sentence—

9 (i) by striking “but subject to sub-
10 paragraph (B)”, and

11 (ii) by inserting before the period
12 “pending a final determination of deport-
13 ability”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act and shall apply to aliens with respect to whom
17 a deportation proceeding is initiated more than 60 days
18 after the date of the enactment of this Act.

19 **SEC. 5. PRISONER TRANSFER TREATY PROGRAM.**

20 Not later than 90 days after the date of the enact-
21 ment of this Act, the Attorney General shall submit to
22 the Congress a report on ways to expand bilateral prisoner
23 transfer treaties. Such report shall consider the feasibility
24 of subsidizing the Government of Mexico for costs associ-
25 ated with the incarceration of Mexican nationals returned

1 to Mexico pursuant to such a treaty and methods of verify-
2 ing that prisoners transferred pursuant to such treaties
3 are serving adequate terms of imprisonment upon trans-
4 fer.

5 **SEC. 6. INTERIOR REPATRIATION PROGRAM.**

6 Not later than 90 days after the date of the enact-
7 ment of this Act, in cooperation with the Government of
8 Mexico the Attorney General shall implement a program
9 of interior repatriation of criminal aliens who are deported
10 or voluntarily repatriated to Mexico.

11 **SEC. 7. INS CLEARINGHOUSE CONCERNING CRIMINAL**
12 **ALIENS.**

13 Not later than 90 days after the date of the enact-
14 ment of this Act, the Immigration and Naturalization
15 Service shall develop a uniform and sound methodology
16 for collecting information concerning criminal aliens incar-
17 cerated in local and State jails, including the number of
18 such aliens.

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